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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,075	01/23/2002	Steven D. McNeil	3862 P 002	3351

7590 08/17/2006  
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EXAMINER

NGUYEN, DINH Q

ART UNIT PAPER NUMBER

3752

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/057,075		MCNEIL, STEVEN D.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Dinh Q. Nguyen		3752	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,21 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-15, 17-20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10-14, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobson.

Jacobson discloses a method of controlling wildfire comprising using an explosive munition 30 to remove burnable material and creating a back burn 16, wherein the back burn 16 is wider than the fire line 12 (see figure 1).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson in view of Ranney, Jr.

Jacobson teaches all the limitations of the claims except for a vehicle to deliver the explosive munition. However, Ranney, Jr. discloses a method of fighting fire with explosive and a truck 32 for delivering the explosive device 10. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the method of

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Jacobson with a truck for delivering the explosive munition as suggested by Ranney, Jr. Doing so would provide a means for delivering the fire fighting material.

5. Claims 3, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson in view of Bonaparte.

Jacobson teaches all the limitations of the claims except for a delivery vehicle that is an aircraft and to knock down a canopy from the trees. However, Bonaparte discloses a method of fighting forest fire by using an aircraft such as helicopter or airplane (see column 1, line 43) to knock down tree canopy as shown in figure 1. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the method of Jacobson with a delivery vehicle such as an aircraft to knock down a canopy from the trees as suggested by Bonaparte. Doing so would provide a means for delivering the fire fighting material to control wildfire.

6. Claims 15, 18, 19, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobson.

Jacobson teaches all the limitations of the claims except for the fire fighting ordnance such as liquid explosive; or bombs, missiles, bullets from an aircraft. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the method of Jacobson with liquid explosive; or delivery bombs, missiles, bullets from an aircraft, because Application has not disclosed that the ordnance such as liquid explosive, bombs, missiles, or bullets provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention

to perform equally well with either claimed methods or the Jacobson method. Therefore, it would have been an obvious matter of design choice to modify the method of Jacobson to obtain the invention as specified in claims 15, 18, 19, 20 and 22.

***Allowable Subject Matter***

7. Claims 16, 21, and 23 are allowed.

***Response to Arguments***

8. Applicant's arguments filed 6/05/06 have been fully considered but they are not persuasive.

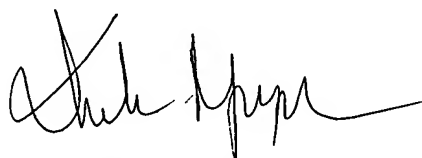
9. Applicant's arguments with respect to claims 1-7, 10-15, 17-20, and 22 have been considered but are moot in view of the new ground(s) of rejection.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dinh Q Nguyen  
Primary Examiner  
Art Unit 3752

dqn